THE SCOTCH ECHO TO THE English Legion:

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BRITISH MUSEUM

English Legion:

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TO THE

Engliſh Legion:

OR,

The Union in Danger,

FROM

The Principles of ſome Old and Modern Whigs in both Nations, about the *Power of Parliaments*.

Being every Word collected from their own Writings, and here Publiſh'd for the Conſideration of thoſe who are capable of forming a Teſt to ſecure the *Union* from the dangerous Conſequences of ſuch Principles.

Edinburgh: Printed 1707.

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Legions Humble Addreſs to the Lords.

To the Right Honourable the Lords Spiritual and Temporal Aſſembled in Parliament.

'THE *Diſtreſſed People of* England *betrayed and abuſed* 'by their Repreſentatives, humbly fly to your Lord-'ſhips, as the only Refuge now left them, next 'under God and Her Majeſty, where they can 'apply themſelves for the ſafety of their Liberties, and 'Redreſs of the Grievances of this Nation.

'And that your Lordſhips and all the World may know, 'That it is not without great reaſon, that we come to 'your Lordſhips *from that Houſe, where our Safety ought to* 'depend: Accordingly we crave leave humbly to repreſent 'to your Lordſhips.

'There is a Duty incumbent *on the Peoples Repreſentatives*, 'viz. *The Care of the Liberties, Properties, and Peace of the* 'Perſons they repreſent, which they have no right to part with, 'or to expoſe; and therefore all the Powers and Rights of us 'the Repreſented, are not committed to them the Repreſenters.

'Whenever a Houſe of Commons *ſhall part with, expoſe,* 'neglect, or ſuffer to be infringed, the Liberties, Rights, and Peace 'of the People they Repreſent, they betray their Truſt, violate the 'general Reaſon and Nature of their being choſen: Their repre-'ſenting power and being ceaſes of courſe, and they become, 'from that time forward, a mighty Conventicle, an unlawful 'Aſſembly, and may and ought to be depoſed and diſmiſſed, by 'the ſame Laws of Nature and Right that oppreſs'd Subjects 'may, and in all Ages have depoſed bloody and tyrannical 'Princes.

In

'It is the undoubted Right and Priviledge of the Peo-
'ple of *England*, that they are not bound to submit to
'any Power but what is legal, *and the known Laws of the*
'*Land, are the ſtated Bounds of Parliamentary as well as Regal*
'*Power*; and therfore the People ought not to be oppreſs'd.
'On the breach of theſe Laws, and oppreſſing the People,
'your Lordſhips noble Anceſtors have frequently taken Arms,
'and pulled down bloody Tyrants, depoſing their Power,
'and reſcuing your Country from Slavery and Oppreſſi-
'on: And having convey'd to your Lordſhips and us
'the People of *England*, the Right of being govern'd by
'known Laws: We have till now defended that Right, to
'the deſtruction of all thoſe that ever attempted to in-
'vade it; and, under your Lordſhips Protection, ſtill
'reſolve to do ſo to the laſt drop of our Blood.

'It cannot be juſt, that what our Kings have no right
'to take away, *our Repreſentatives may without Law*; *And*
'*that the People may endure the* Tyrannie of five hundred
'Uſurpers more than one, *ſince no number or quality of Per-*
'*ſons can make that Lawful, which in its own Nature is not ſo.*

'Theſe things being undeniably true, we cannot,
'without great Regret, apply our ſelves to your Lord-
'ſhips, and humbly repreſent in our own Names, and
'in the Names of all the good People of *England*, That
'to addreſs Her Majeſty to extend Her Prerogative, and
'thereby embroil Her Majeſty with the Peers, is the
'moſt aggravated piece of Treachery that ever Houſe
'of Commons was, or ever can be guilty of.

'As it's an Affront to Her Majeſty, and reproaching
'Her with not knowing how to manage Her Govern-
ment.

'As it's a malicious Deſign on Her Perſon, by per-
'ſwading Her *to enter on that very thing*; *the exorbitant*
'*practice whereof was the Ruine and Deſtruction of Her Father*
'*and Grandfather.*

'As

'As its a notorious Diſcovery of a Treacherous Plot againſt the People of *England*, to bring the Prerogative of the Prince in Play, and prompt it forward, which has coſt the Nation ſo much Blood and Treaſure to reſtrain.

'*It's the moſt unparallel'd, unpreſidented Attempt upon the Liberties of the People, who ſent them there to protect, ſettle, and defend them, whoſe Servants they are, and whoſe Rights and Liberties they cannot expoſe without the moſt deteſtable Perfidy, and degenerating from all the Members that ever ſate within thoſe Walls before them.*

'*It's a terrible precedent for future Ages, when ſome Prince of leſs Honeſty may ſit on the Throne, who may with more eaſe be perſwaded by a byaſſed and corrupt Houſe of Commons to become Tyrants and Advancers of the Prerogative.*

'And your Lordſhips, like the true Poſterity of thoſe Noble Anceſtors, at the price of whoſe Blood we receiv'd our Priviledges and Liberties, having vigorouſly and gloriouſly withſtood the treacherous and unfaithful Proceedings of thoſe our degenerated Repreſentatives.

'We cannot, but with a deep ſenſe of Gratitude and Affection, preſent unto your Lordſhips this our humble Addreſs, heartily acknowledging your Lordſhips Zeal, Courage, and Fidelity, both in vindicating your undoubted Rights, invaded by the ſame Houſe of Commons, in your diligent Care for the ſafety of Her Majeſty's Perſon, and in your Lordſhips aſſerting the Liberty and Rights of the People of *England*, againſt the Invaſion and Uſurpation of the Houſe of Commons.

'We cannot in Gratitude but aſſure your Lordſhips, that in the farther purſuit of theſe juſt and glorious Ends, we the injured Freeholders and Commons in

'*Eng-*

'*England*, will firmly adhere to, and faithfully defend 'your Lordſhips both in your Perſons and Authority: 'We will maintain your Lordſhips in all your juſt and 'legal Priviledges, and in all the due Meaſures you 'have already taken, or ſhall further take, in the de-'fence and vindication of your juſt Rights, Her Ma-'jeſty's Perſon, and our own Liberties: In all which we 'humbly aſſure your Lordſhips, as one Man, to live 'and die with you.

'Our Name is Legion, and we are more.

The next of your Authors I ſhall refer to your Conſideration is, that fam'd Piece called *Jura Populi Anglicani*, printed in defence of the *Kentiſh* Petitioners in 1701. at the direction of your chief Whigs, by one of your ableſt Lawyers, as the ſenſe of all your Party.

From the Preface of Jura Populi Anglicani.

'THo' the Task be very grateful, and what I could 'not undertake, when I conſider'd how neceſſary 'it was *to run down that Power, which has been aſſumed to deſtroy the freedom we are entitled to by the Law of Nature, and municipal Laws of the Land*; yet two Conſiderations there are, which did not a little diſcourage me in 'the Undertaking.

'*Firſt*, It was no ſmall check to me to conſider how 'invidious a thing it is to cenſure the Proceedings of 'that great and Honourable Aſſembly of the Houſe of 'Commons. The People of *England* generally call 'them their Repreſentatives, and ſo far do they think 'themſelves intereſted in what they do; as to eſpouſe 'their Acts for their own, and reckon any Cenſure of 'them to be an arraignment of the whole People. 'He therefore that will be ſo hardy as to attack ſuch

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'an Authority as this, may well be under some concern 'at the Undertaking, and had need in the very entrance, 'to remove a prejudice which is enough to defeat his 'sincere Endeavours to serve the Publick. The Apology 'which I shall here make for my self is, to desire those 'who are so tender of the Honour of their Representa-'tives, to consider,

'First, *That he who uses a freedom in speaking against the Proceedings of the House of Commons is not necessarily supposed to speak against the whole House, much less the whole People of England.* 'Tis true indeed, when a Question is 'carried, tho it be only by one Voice, it's as much the 'Act of the whole Body, as to any force and operation 'in our Constitution, as if it had the Suffrages of every 'individual Person. Will any one say, that such a Re-'solution, in the Debates of Men without Doors, con-'cerning it's being reasonable or unreasonable, is as 'much to be reckon'd the Act of the whole Body, as if 'it had the chearful Suffrages of them all? To speak a 'little more plainly, Let us consider a Question at the 'very time of Division, with the Voices equal on both 'sides. *In this case, Men reasoning and speaking their Minds* 'freely concerning either side of the Question, *cannot be said to* 'be guilty of any Offence, or utter any Reflection against the 'People of England, or their Representatives, because they 'whose Suffrages be condemns, are no more than the other side, 'whose Proceedings he justifies. Afterwards, when such an 'equal Division as this is decided by the Speaker, it must 'be own'd that his Voice makes it the Act of the House: 'But what in reality does such a Person do? Does he any more 'than censure that one Member of the House in his Re-'flection reach any more of the People than those who chose him 'for their Representative? If in such a case the Speaker 'should happen to be a Man of crooked Designs, no-'torious for Falseness and Insincerity, as well as other 'Immoralities, *and engaged in all the Interests of a Party,* 'suspected and feared by far the greater part of the People; 'would it be possible for Humane Nature to have that Reve-

rence which some contend for, for such an Ordinance as this? Or ought he in Justice or good Sense to be Censured as an evil Man, and one who solely Vexes the People of England, who uses some freedom in speaking against a Resolution which gives its Sanction to such a corrupt Voice? This shews us, what Opinion we are to have of those who are free in Censuring such Resolutions when they are carried by greater Majorities. If a matter should happen to be push'd on by the violence of a Faction, wherein the Ringleaders are such whom the People have a long time thought Enemies to the Government under which they live, if the very Fact it self carries in it very bloody Signs of evil Intentions, if it be contrary to the natural Rights of the People and Laws of the Land, nothing the majority of the House shall be able to extricate. And if upon the Ground of such Oppressions and Illegalities, the Voice of the People shall cry against it, would it be a Solecism to say, That he who in defence of the Peoples Rights, uses a freedom in speaking against it, arraigns the Justice of the whole People of England and wounds their Honour through the sides of their Representatives?

But tho' the Imprisoning of the Kentish Petitioners was the act of the greater part, yet was not of the whole House of Commons. If then a grave and honest Party in the House, and in a manner the whole People without Doors, inveigh against the Imprisonment of those Gentlemen, as a notorious Violating Incident of the Liberties of the People of England: This, I hope, will be a sufficient Apology for me, and secure me from the Censures of all those who are apt to call such an undertaking as this an impudent Arraignment of the Justice of the House of Commons, and of the whole People of England.

Jura Populi Anglicani, pag. 30.

'IS certain that nothing can be more agreeable to Nature, and a plainer Dictate of Reason, than 'that those who apprehend themselves aggrieved, to be 'allowed a liberty to approach those *by Petition who know their Grievances, or* perhaps are the Authors of them, 'and consequently able to redress them. When Men 'entred first into Society, and gave up that Right which 'they had to secure themselves in the state of Nature, 'its manifest that they did it *for the* preservation of Property, which is the end of Government.

Page 31.

'Can any absurdity be so gross, as to imagine, that 'Men gave up their Right to pray for Redress, if they 'thought themselves injured in their Properties? *or that 'the Supream Power may hinder them to pray for that which 'they have not a right to deprive them of?* Where-ever 'therefore any Government is established, there the 'natural Right which People had to secure what was 'their own, must be so far at least continued, as to 'allow them a Liberty to Petition for what they think 'their Right, *because this is a Priviledge which they could 'not give up, when they entred into Society.*

Page 32.

of King *James* the First, by a Proclamation publish'd
in the Eleventh Year of his Reign begins thus: The
Complaints lately exhibited to us by certain Noblemen
and other of our Kingdom of *Ireland*, suggesting Dis-
orders and Abuses, as well in the Proceedings of the
late begun Parliament, as in the Martial and Civil
Government of the Kingdom, we did receive with
all extraordinary Grace and Favour,

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'But we are told, That by the Constitution of our
'Parliament *the Members are left to the freedom of their own*
Debates, and are to act without Controul: they therefore
who take upon them to intermeddle in their Business, in-
vade that Freedom, and consequently our Constitution. They
who tell us, that the Representatives of the Freemen
of *England* have such a Freedom as this, and are to
Act without Controul, cannot sure mean, that they
have delegated their whole Power to them, so that
its free for them to do whatever they please, without
any regard to the Inclinations or Interests of those
who imploy them. 'Tis not to be suppos'd, that he
who takes what Servant he pleases, is oblig'd to suffer
him to do what he pleases. *The Knights, Citizens and*
Burgesses sent by the People of England to serve in Parlia-
ment, have a Trust reposed in them, which if they should
manifestly betray, the People in whom the Power is more
perfectly and fully than in their Delegates, must have a
Right to help and preserve themselves. Were not this so,
the Condition of those who act by *Delegates* would
'be

'be worse, and their Freedom less than that of other 'States; which I think is not so in the Reckoning of 'Mankind. The *Achaians*, *Etolians*, *Latins*, *Samnites*, 'and *Tuscans* formerly did, as now the United Provin-'ces of the *Netherlands*, the *Switzers* and *Grisons* do, 'transact all things relating to their Associations by De-'legates. The *Athenians*, *Carthaginians*, and *Romans* kept, 'as the *Venetians*, *Genoeses* and *Luccheses* do now, the Power 'in their own Hands. These all, as an Ho-'nourable * Author observes, were and are 'equally free. But it would, I think, be 'very improper to reckon them so, unless 'we suppose the Power committed to their Trustees re-'mained still in them, That the Power arises and is 'fix'd here, and that the Delegates reckon themselves 'obliged to follow the Directions of those who choose 'them, is evident from the practice of other Countries, 'whose Government had the same Origine with that 'of *England*. *The Deputies or Procuradores of the several 'Parts of Castile, did in the* Cortez *held at* Madrid, 'in the beginning of Charles *the Fifth's Reign, excuse them-'selves from giving the Supplies he desired, because they had 'received no Orders in that Particular from the Towns that 'sent them*; and afterwards receiving express Orders not 'to do it, they gave his Majesty a flat denial. The like 'was frequently done during the Reigns of that great 'Prince, and of his Son Philip the Second. The same 'way was taken in *France*, as long as there were any 'General Assemblies of Estates; and if it do not still 'continue, 'tis because there are none. For no Man 'who understood the Affairs of that Kingdom, did ever 'deny, that the Deputies were obliged to follow the 'Orders of those who sent them. In the General As-'sembly of Estates held at *Blois*, in the Time of *Henry 'the Third*, *Bodin*, then Deputy for the Third Estate of '*Vermandois*, by their particular Order, propos'd so many 'things as took up a good part of their time. Other 'Deputies alledged no other reason for many things said 'and

* Sidney of Government p. 401.

'and done by them, that that they were commanded so to 'do by their Superiors. These General Assemblies be-'ing laid aside, the same Custom is still used in the 'lesser Assemblies of Estates in *Languadoc* and *Brittany*, 'The Deputies cannot, without the Infamy of betraying 'their Trust, and fear of punishment, recede from the 'Orders given by their Principals. The same Method is 'every Day practis'd in the Diets of *Germany*: The 'Princes and great Lords, who have their Places in 'their own Rights, may do what they please; but the 'Deputies of the Cities must follow such Orders as they 'receive. The Histories of *Denmark*, *Sweden*, *Poland*, 'and *Bohemia* testify the same things.

'This appears to have been the Constitution of '*England*. Formerly, says my Lord *Coke*, 'in the Writs to the Sheriffs for the E-'lection of Commons, the King signified, 'that by the Advice of his Council he 'call'd them together about some weighty Affairs, that 'concern'd himself, the State and Defence of his King-'dom of *England*, and the Holy Church, and requir'd 'them to choose such Men as would promote those 'Affairs, that for want of such a Power, and by an 'improvident Election, the foresaid Business might not 'be left undone. The Business that requir'd their 'Meeting was publish'd in the Writs, That the Com-'mons and Freemen might consider what they thought 'convenient to have done, and that they might choose pro-'per Delegates and direct them as they think fit. This 'I take to be the reason why it was always the Custom, 'at the Meeting, to declare the Cause of Parliament, 'which, in ancient time, says he, was 'shewed in the *Chamber de Peint*, or St. *Ed-'ward*'s Chamber: That the Persons elected 'being more fully inform'd of the business 'to be transacted by them, might be able to give their 'respective Countries] timely information of it, in or-

* 2d Institut. fol. 9, 10.

* 2d Instit. fol. 8.

'der

'der to receive their Directions therein. In this Opini-
'on we may be confirm'd by what that great Sage of
'the Law tells us in another place, *When any new De-*
'*mand is proposed on the King's behalf*, says * he,
'*the Commons may answer, That they tendred* * 2d *Instit.*
'*the King's Estate, and they are ready to aid* *fol.* 14.
'*the same, only* in this new Device they dare
'not agree without Conference with their Countries.

'Since then in our Constitution the Delegates of
'the People have reckon'd, that they had a Trust re-
'posed in them by those whom they Represented, and
'that they were obliged to make their Will the Rule of
'their Actions: it will be very hard to conceive how
'it can tend to destroy this *Constitution*, *to pray them*
'*to have a regard to the Voice of the People* ——

'but if their Management bring them under the
'suspicion of the Nation, the People who have a Right to
'prefer Remonstrances, must be allowed a Liberty to let them
'know in civil and respectful Terms, what is the Voice
'of the People, and what they think the Necessities of the
'publick. In such a case its impossible for all to re-
'present the publick Grievances together; some there-
'fore must begin, and they who address first, when
'there's good reason for it, deserve the Thanks of the
'whole.

'But now if Corporations can be Surrendred or
'Forfeited, it's a very calm matter, in a short time,
'to put the whole Frame of the Government into the
'Hands of the Crown, and thereby to make the King
'of England as absolute in his Power as the most ab-
'solute Monarch in the World.

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In a Book entituled, Seasonable Reflections on dissolving Corporations in the two late Reigns, by Surrendring of, and giving Judgment against Charters, *writ by the late Sir* Robert Atkins, *a Learned Lawyer and great Asserter of Liberty.*

General Preface, pag. 3. Speaking of the Constitution of England, *which he reckons the happiest in the World, he says*

——— 'As the Subjects of the King are born to Lands and 'other things, so are they born to inherit and enjoy 'the Laws of this Realm, that so every Man may have 'an equal benefit by the Law. It is therefore called 'Common Right; and is a greater Inheritance to 'every Man, than that which descends to him as Heir 'from his Parents; because thereby his Goods, Lands, 'Wife, Children, his Body, Life, Honour, and Estimation are protected from Injury and Wrong.

Page 16. Speaking of the Surrender of Corporations.

'But now if Corporations can be Surrendred or 'Forfeited, it's a very easie matter, in a short time, 'to put the whole frame of the Government into the 'Hands of the Crown, and thereby to make the King 'of *England* as absolute in his Power as the most ab-'solute Monarch in the World.

Page

Page 24. ſpeaking of the ſurrenders of the Charters and Corporations, he ſays,

'That ſuch a Surrender is firſt a Sin againſt the Law 'of Nature, for any Man that is free by the Conſtitu- 'tion to make himſelf a voluntary Slave. *2dly*, It's a 'Sin againſt the Law of God, for any Man that is 'under an Oath, to break that Oath, and to Perjure 'himſelf upon any pretence whatſoever. *3dly*, It is a- 'gainſt the Law of the Land, in that it deſtroys the 'natural Right of every free-born Subject of *England*, 'to make free Election of Members to ſerve in Parli- 'ament. *4thly*, It is an abdicating of our ancient Con- 'ſtitution, a giving up our ſelves to be Govern'd accor- 'ding to arbitrary and Deſpotical Will and Pleaſure, a 'renouncing of the ancient Laws of this Realm, origi- 'nally eſtabliſh'd as Laws of the ſame, by our Suffe- 'rance and free Conſent, and which we have bound 'our ſelves, by long Uſe and Cuſtom, to obſerve.

'In a word, the People that have been guilty hereof, 'however they may have flatter'd themſelves, or been 'flatter'd by others, *or worſe abuſed by thoſe that ſhould 'preach nothing but ſound Doctrine*; they have been trea- 'cherous to their God, to their Country, to their own 'Souls, and to their Poſterity; and have, as much as 'in them lay, diſſolv'd the Foundation, Freedom, and 'Form of their Commonwealth, which their Anceſtors 'for'-priſed, when they firſt conſented to have a King.

Ibid.

'Even in the hotteſt and maddeſt of Times, thoſe 'of *Edward* the Firſt, *Edward* the Second, and *Richard*

'the Second, when all those Seisures and Forfeitures 'were, they were never so extravagant as to suppose 'they had such a Power to destroy the Being of Cor-'porations, much less actually themselves to destroy 'their Being.

'It was represented to them, that such a Judgment 'would remove us from our Center, unhinge the whole 'Frame of this admirable Government, make it an '*Imperium plane Despoticum*: And so we should either 'have no Parliament at all, that is to say, so chosen 'by the People as they ought, and of old Times have 'been accustomed; or, if any, according to the new 'model'd Constitution, I mean of the Courts nomi-'nation.

Page 25.

'*Glanvil*, who was Lord Chief Justice in King '*Henry* the Second's Days, above Five hundred Years 'ago, wrote a Book of the Common Laws of *England*, 'which is the ancientest of any extant, touching that 'Subject, informs us, That there was then, in his Time, 'such a thing as High-Treason against the Kingdom.

Page 26.

'In the Articles of High-Treason, and other Misde-'meanors drawn up by Mr. Sollicitor *Herbert*, in King '*Charles* the First's Time, against the Lord *Kimbolton*, 'and Five Members of the House of Commons, these 'were two, *viz.* 1. That they had traiterously endea-'vour'd to subvert the fundamental Laws and Govern-'ment of this Kingdom. 2. That they had traite-

'rously

'rously endeavour'd to subvert the very Rights and 'Beings of Parliament.

In a Book entituled, Rights of the Kingdom, &c. Customs of our Ancestors, &c. Printed *at* London, 1649. *we have the following Passages.*

Page 182.

'IN *Richard* the Second's Time there was a Committee of Lords and Commons appointed to hear 'and determine all Petitions in that present Parliament; 'but afterwards it was adjudged and declared, That such 'a Commission ought not to be given, committing or 'betraying the high Power of Parliament into a few 'private Hands; as we may learn out of the Rolls of '*Henry* the Fourth, besides other times.

And a little lower.

'This seemeth to be the Law of Nature and right 'Reason, that Delegates should not delegate others; 'which was one reason why the Commons never 'made Proxies as the Lords did.

Page 93. *That ſame Author ſays,*

'If the Caſe were put thus: That for three diſtinct 'Eſtates or Cities, there were three Men choſen and ſent 'out to meet and treat of that which did concern their 'common Safety; and that two of theſe conſpired to-'gether to deſtroy or enſlave the third. I think it would 'not be denied, but by reaſon and the Law of Nature 'he might ſeek to ſave his Life, and to defend himſelf 'againſt the other two.

From Jus Populi Vindicatum, *a Book printed in defence of the People of* Scotland's *Right to defend themſelves, &c. in* 1669, *wherein one of the greateſt Lawyers of this Nation, and perhaps of any other, was concern'd.*

Page 333, &c.

'WE deſire theſe things may be conſidered, 'I. That as Neceſſity did put People at firſt up-'on the Conſtitution and Election of a Parliament to 'manage their Affairs, which they could not ſo con-'veniently do themſelves, without Confuſion, Diſcords, 'and other Inconveniencies, which would neceſſarily 'attend a Community's meeting together, for carrying 'on of theſe Matters: So it was the certain expectation

'of

'of their Profit and Advantage that did prompt them unto the ſettling of this Frame and Conſtitution.

2. 'Whatever Power theſe commiſſionated according 'to that Frame and Model condeſcended upon, had or 'have, is not in and from themſelves, but from the Peo-'ple; no leſs than the Prince hath his Power from the 'People, as was ſhewed above; for no Man can imagine 'any difference, as to the ſubordinate and inſtrumental 'Riſe of the Power, of the Prince and of the *Ephori*: 'So that as his Power is from the People under God, ſo 'is the Power which they have. Theſe publick Mini-'ſters of the Kingdom (ſaith *Althuſ. Pol.* c. 18. *n.* 31.) 'are choſen by the united and conſociated Body of the 'People or Members of the Kingdom, to govern, take 'care for, and preſerve the whole aſſociated Body, and 'her Rights, and are inſtructed with neceſſary Power 'and Authority, which to perform they are obliged by 'Oath.

3. Hence really *the Power of the People is greater than 'the Power of any delegated or conſtituted by them*; for the 'Cauſe is more than the Effect: And the Parliament 'doth repreſent the People, but the People do not re-'preſent the Parliament. *Therefore the Power of the People 'muſt be greater.* His Power who doth conſtitute ano-'ther, or depute him as a Guardian to ſome buſineſs, 'or to overſee ſome of his Matters, is greater than any 'Power, which that other deputed or conſtituted Cu-'rator hath. Parliaments then being but as Tutors 'and Curators unto the People, muſt have leſs Power 'than the People have. *Mandans vero* (ſaith *Althuſius*, 'Pol. cap. 18. n. 92.) *vel injungens alii rerum ſuarum pro-'curationem eſt inſtar imperantis rogantiſve; ſuſcipiens vero 'talem adminiſtrationem, inſtar obtemperantis, inſervientis, & 'officium ſuum alteri præſtantis.* So that the Parliament is 'but a Servant to the People: And the Power of a Maſter 'is always ſuperior to the Power of a Servant as ſuch.

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4. 'It is irrational to think, that the People in chuſing the *Ephori*, or Parliament-Menbers, and committing the Adminiſtration of their weighty Affairs unto them, did denude themſelves of all that innate and radical Power which they had to manage their own Matters; ſeeing no urgent neceſſity could compel them to it, nor any foreſeen Advantage or Profit which thereby could redound unto them, move them, and perſwade them thereunto; but, on the contrary, much hazard and diſadvantage might, at the very firſt, appear upon ſuch a ſurrender as this. Much leſs could they denude themſelves of that Power of Self-defence, which by no Law of God or Man they might lawfully give away.

5. 'Whatever Power Parliaments have, it is to be exercised and put in practice for the Good and Advantage of the People. Their power is for the *Profit*, and not for the *Hurt* of the People; and to this ſcope and end ſhould they level all their Labours, Travels, Pains, Endeavours, Cares, Thoughts, Conſultations, Conferences, Votes, Deliberations, and Concluſions, *L. Imperial. C. de nuptiis L. bene a Zenone C. de quadr. L. 8. C. de legibus. L. præcipimus 34. C. de appell. See Althuſ. Pol. c. 18. n. 7. 37.*

6. 'Hence their Power is not abſolute, infinite, or unlimited, but hath its own Bounds and Limits over which it cannot lawfully paſs. They are to rule and do all for God and the good of the Realm, whoſe Servants they are. They are the *Miniſters of God for the Peoples good*, Rom. 13. 4.

7. 'When they tranſgreſs their true Limits (which no Man will ſay is impoſſible) by commanding what God hath forbidden, or forbidding what God hath commanded in his Holy Law; or when they [ek not

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'the publick good of the Land, but their own private Advantage, they are not, but cease to be the Ministers of 'God and of the People, and become private Persons, who 'ought not, in these particulars, wherein they go beyond 'their Bounds, to be obeyed: As saith *Althusius ubi supra n.* 41. and proveth by many Authors: And the 'reason is clear, for no Inferior can disanul God's Law, 'or free us from subjection thereunto. They have no 'Power to command Sin, God never gave them such 'a Power; And the People could not give it, for they 'had it not themselves; nor had they a power to wrong 'and destroy themselves, and so they could not give this 'unto them.

8. 'If these Ephori or Trustees betray their Trust, 'and sell, or basely give away the Liberties and Privileges of the People, which they were intrusted with, the 'People cannot thereby be brought into a remediless condition, or lose their Privileges without all hopes of recovery. If a Tutor waste and destroy the Pupil's 'Estate, the Law provideth a Remedy for the Pupil. 'If a Commissioner or Deputy betray his Trust, the 'Master's Loss thereby is not irremediable. If an Advocate betray a Client's Cause, the Client will find 'some relief. "The People's Right, saith *Althusius*, "*ubi supra n.* 124. suffereth no prejudice, nor doth the "Prince——— obtain any more tyrannical *Power*, by "the negligence, perfidy, deceit, collusion, treachery, "prevarication, and conspiracy of the *Ephori* or *Primores Regni*, with the Prince ——— for it is unjust "and absurd to affirm, that the Ephori or Parliament-"Men can transfer unto the Prince what they never had "themselves, or can destroy or alienate the Rights of the "Community, in prejudice of the whole Realm; and that, "contrary to the fundamental Laws of the Land, or such "as the Prince swore to maintain, and which contain the "Spirits and Life of the Commonwealth.

From

'From these irrefragable Truths, so consonant to 'right Reason, and attested by Learned Politicians, it 'will clearly follow, 1. That the *Peoples* Case is not 'worse by *Parliaments*, than it would have been without them. 2. That *Parliaments* cannot tyrannize by 'any Law or Right over the *People*. 3. *That no Treachery or Perfidy of Parliaments, neglecting their Duty or betraying their Trust, can prejudge the People of their due Rights and Priviledges.* 4. *Parliaments* not concurring 'with the *People* in their necessary Defence, cannot 'loose them from the Obligation of Nature, to defend 'themselves from Tyranny and intolerable Oppression. 5. *If Parliaments, instead of acting the Part of Trustees, Tutors, Curators, Delegates and Servants, shall turn Tyrants, Wolves, Tygers, and Enemies to the Commonwealth themselves, or conspire, join, or enter into a Confederacy with a Tyrant, and so seek the Destruction of the Community, the Community is allowed to see to the preservation of their own Rights and Priviledges the best way they can.* 6. And so in some cases, when the hazard 'is great, the loss irreparable, private Persons may 'defend themselves against manifest Tyranny and Oppression without *Parliaments*.

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'From all which, we think, these things will clearly 'follow,

1. 'That it may be much doubted if this last Convocation can be accounted by any Law either of God 'or Man, a lawful Parliament, having so palpably betrayed their Trust in ruling not for God and his Interest, but against him, and enacting things to his 'Dishonour, in selling and giving away the old and un-

'undoubted Privileges of Parliament; and in betraying, 'dilapidating, diſponing, and giving away the native and 'unqueſtionable Rights and Privileges of the People, and 'in overturning the fundamental Laws of the Land, and 'anulling the fundamental Articles of the Compact betwixt 'King and People. Seing Politicians will grant, that 'ſuch are to be accounted but private perſons; Tho' we 'ſhould make no mention of other Informalities, which 'uſually weaken or anull the Conſtitution of a Judica-'ture of that nature, in point of Formality, as liberty 'denied to ſome Shires to chooſe ſuch Members as they 'thought fit; prelimitations uſed to all; the admiſſion of 'ſome, as Members not capable of an Election, ac-'cording to our ancient and received Cuſtom; the '*denying of the free liberty of Debating, Reaſoning,* diſſent-'ing and proteſting, which is allowed in all free Judi-'catories, and *the carrying on of Matters in a headſtrong,* '*violent and tyrannical manner, without ſuch previous De-'liberation, or ſerious Conſideration, and pondering the weight* '*and moment of Matters, as would have become a Judicature* '*by its Conſtitution and Nature ſo ſage and honourable.*

2. 'The native, ancient, and undoubted Privileges 'of the People are *de jure,* entire and inviolated, not-'withſtanding any thing done by this late meeting, 'which had no Power to do what they did: And 'therefore could not wrong the Rights and Privileges 'of the People.

3. '*That there is no hope nor humane probability now left,* '*that ever the People of* Scotland *ſhall have a Parliament* '*by the courſe laid down, or inferior Judges to reſent the* '*Injuries, Oppreſſion, and Tyranny wreathed cloſer about their* '*Necks.* So that there was not, neither is there any 'hope (ſo long as the courſe of defection ſtandeth and 'is not overturned) that Parliaments now, or the *Pri-'mores Regni,* or inferior Judges ſhall concur for the 'ſuppreſſing of Tyranny, bearing down of Oppreſſi-

'on, Defection and Apostacy according as they 'ought.

4. 'That while Matters are so, the People of *Scot-* 'land are as if they had no Parliament, nor inferior 'Judges, for that end; and cannot be supposed or 'imagined to be in a worse Condition, than if they 'never had any such to protect them from the tyran- 'nical and arbitrary Lust and Domination of Princes; '*and therefore must be allowed to use the Privilege and Li-* 'berty which Nature hath granted unto them to defend 'themselves from unjust Tyranny and Oppression of Parlia- 'ments, and inferior Judicatures, when their Representatives 'palpably betray them into the Hands of their Adversaries; 'yea, and conspire with their Adversaries against them and 'their Privileges; and instead of Patrons and Defenders of 'their Rights and Privileges, turn Enemies thereunto, and 'take Courses utterly to destroy all.

F I N I S.